



INTERIOR BOARD OF INDIAN APPEALS

Kiowa Tribe of Oklahoma v. Acting Anadarko Area Director,
Bureau of Indian Affairs

19 IBIA 320 (04/25/1991)

Affirming on reconsideration:
19 IBIA 157



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

KIOWA TRIBE,	:	Order on Reconsideration
Appellant	:	
	:	
v.	:	
	:	Docket No. IBIA 90-113-A
ACTING ANADARKO AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	April 25, 1991

The Board of Indian Appeals (Board) issued a decision in the above case on January 21, 1991. 19 IBIA 157. That decision affirmed a January 30, 1990, decision of the Acting Anadarko Area Director, Bureau of Indian Affairs, finding that the Kiowa Constitution did not grant Kiowa members of the Kiowa, Comanche and Apache Intertribal Land Use Committee authority to enter into long-term leases of lands jointly owned by the three tribes without the approval of the Kiowa Indian Council. The basis for the Board's affirmance was the failure of appellant Kiowa Tribe to carry its burden of showing the error in the decision below, because it did not file a brief or other statement supporting its appeal.

On January 28, 1991, the Board received a telefax copy of a motion for reconsideration from Scott Keep, Esq., Office of the Solicitor, U.S. Department of the Interior, Washington, D.C., stating that appellant had filed a brief with the Assistant Secretary - Indian Affairs, but the brief had not been transmitted to the Board with the rest of the administrative record. ^{1/} On February 1, 1991, appellant joined in the motion for reconsideration. By order dated February 1, 1991, the Board took the motions for reconsideration under advisement pending receipt and review of the referenced brief.

The additional documents filed with the Assistant Secretary have been received and considered. This case raises the legal issue of the extent of the authority of the Kiowa members of the Land Use Committee to the Board for the second time. The original Board decision, Kiowa Business Committee v. Anadarko Area Director, 14 IBIA 196 (1986), found that this issue had been decided by the Assistant Secretary on August 29, 1984. Appellant's brief includes as exhibits materials substantially the same as those previously submitted in Kiowa Business Committee in support of the position now advanced by appellant. Other exhibits are additional documents which were apparently discovered after the issuance of Kiowa Business Committee. Appellant's legal arguments are also substantially the same as those raised in Kiowa Business Committee, as further supported by its review of the new materials.

^{1/} See 19 IBIA 158-60 for a complete procedural background of this case.

The Board has thoroughly reviewed appellant's brief and exhibits in light of the prior decision in Kiowa Business Committee and the 1984 Assistant Secretary's decision upon which the Board's decision was based. The Board is not convinced, however, that the original decision was incorrect.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. 4.1 and 4.315, the January 30, 1990, decision of the Acting Anadarko Area Director is affirmed for the reasons set forth in the Assistant Secretary's August 29, 1984, decision and the Board's decision in Kiowa Business Committee v. Anadarko Area Director, 14 IBIA 196 (1986).

//original signed

Kathryn A. Lynn
Chief Administrative Judge

//original signed

John H. Kelly
Administrative Judge
Alternate Member